

ORDINANCE 2020-02

AN EMERGENCY ORDINANCE TO CREATE AND ENACT EMERGENCY ORDINANCE NO. 2020-02 OF THE MOORHEAD MUNICIPAL CODE RELATING TO BID OPENING ALTERNATIVES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOORHEAD AS FOLLOWS:

BID OPENING ALTERNATIVES

SECTION 1: PREAMBLE, PURPOSE AND INTENT:

A. On March 13, 2020, Minnesota Governor Tim Walz issued Emergency Executive Order 20-01, declaring a peacetime emergency due to the presence of Coronavirus Disease 2019 (“COVID-19”).

B. On March 16, the Mayor of Moorhead, Minnesota (the “City”) issued an official Declaration of Emergency, which was confirmed and continued by the City Council on March 19, 2020, pursuant to Minn. Stat. § 12.29.

C. It is recommended that social distancing be implemented in an effort to slow the spread of COVID-19. Numerous governmental entities, including the State of Minnesota and the City, have cancelled or restricted public gatherings to reduce the spread of COVID-19.

D. Section 3.06 of the City Charter provides, “An emergency ordinance is an ordinance adopted for the immediate preservation of the public peace, health, or safety. The emergency must be defined and declared in a preamble to the ordinance. The preamble must be voted on separately. An emergency ordinance may be introduced and adopted at a regular, special, or adjourned meeting of the council.”

E. Minn. Stat. § 469.068, subd. 1, governs bid law for construction contracts and states, “After bids have been received, opened, read publicly, and recorded, the commissioners shall award the contract to the lowest responsible bidder...” While Minn. Stat. § 469.068, subd. 1 requires bids to be read publicly, it does not mandate the physical presence of the public at bid openings.

F. Section 1.00, subd. 2, of the City Charter further provides that the City shall have all powers which may now or hereafter be possible for a municipal corporation in this state to have and exercise in harmony with the constitutions of this state and of the United States not inconsistent with the specific limitations found in the City Charter. Minn. Stat. § 412.221, subd. 32, authorizes a municipality to enact ordinances for the promotion of health, safety, order, convenience, and the general welfare.

G. This Ordinance establishes guidelines to ensure that bid openings for City contracts can be conducted without public in-person access, and members of the public can observe bid openings during a declared state of emergency without endangering the health of City staff, the public, and the community at large.

SECTION 2: DEFINITIONS:

Except as may otherwise be provided or clearly implied by context, all terms will be given their commonly accepted definitions. For the purpose of this Ordinance, the following definitions will apply:

CITY: The City of Moorhead, Minnesota.

CITY CHARTER: The Moorhead, Minnesota, charter, which establishes the form of government for the City.

CITY COUNCIL: The City Council of Moorhead, Minnesota.

CITY ENGINEER: The City Engineer for Moorhead, Minnesota.

CORONAVIRUS DISEASE 2019 ("COVID-19"): An infectious disease caused by a novel coronavirus now called severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which causes respiratory illness with symptoms such as a cough, fever, and in more severe cases, pneumonia.

DECLARED EMERGENCY: A national security or peacetime emergency declared by the governor under Minn. Stat. § 12.31 or the President of the United States; or a declared state of emergency by the mayor under Minn. Stat. § 12.29.

ELECTRONIC MEANS: Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a radio, telephone, video, or web-based conferencing means.

PROPOSAL GUARANTY: The security furnished with a proposal to guarantee that the bidder will enter into the contract if the contract is awarded to the bidder.

SECTION 3: BID SUBMISSIONS:

1. During a Declared Emergency, bidders on City contracts shall refrain from delivering bid packages in person.

2. During a Declared Emergency, bidders on City contracts shall submit bids electronically using the QuestCDN Online Bid Platform, or in the form and manner determined by the City, and as described in the bid documents.

3. Bidders on City contracts who have submitted bids using the QuestCDN Online Bid Platform or by other Electronic Means, as determined by the City, shall submit their proposals by the date and time set for opening bid proposals.

4. Bidders on City contracts who have submitted bids using the QuestCDN Online Bid Platform or by other Electronic Means, as determined by the City, shall submit the Proposal Guaranty electronically, by the date and time set for opening proposals.

5. Bidders shall file an original hard copy of the Proposal Guaranty with the City within forty-eight (48) hours after the date and time for the opening of bids.

6. The City shall designate a staff person to receive the electronic bid packages and be responsible for printing a hard copy.

7. The City shall designate a staff person to be responsible for keeping the amount and terms of the bid package confidential until the time and date specified in the solicitation that bids are to be read publicly at the bid opening.

8. The City Engineer shall take such action as may be reasonably necessary or convenient to ensure bid packages are received in a timely manner through Electronic Means.

SECTION 4: BID OPENING ALTERNATIVES:

1. During a Declared Emergency relating to a health pandemic where the nature of the physical environment presents a risk to public health, bid openings may be conducted by City personnel or City-hired consultants without public in-person access, by telephone or other Electronic Means.

2. During a Declared Emergency, City personnel or City-hired consultants shall determine the time, location, and arrangements for bid openings to be conducted by telephone or other Electronic Means.

3. During a Declared Emergency, City personnel or City-hired consultants shall ensure proper equipment is installed and set up when bid openings are to be conducted by telephone or other Electronic Means.

4. City personnel or City-hired consultants shall provide notice to bidders or members of the public as to where they can listen or view bid openings held by telephone or other Electronic Means.

5. City personnel or City-hired consultants shall provide notice to bidders or members of the public of bid opening changes via addenda and/or the City's official website.

6. All City staff, City-hired consultants, or others who are physically present at bid openings, wherever their physical location, shall be able to see one another and hear all discussion.

7. Members of the public who listen or observe bid openings by telephone or other Electronic Means, shall be able to hear or see all discussion.

8. At least two City personnel, including City-hired consultants are physically present at the bid opening location, unless unfeasible due to the health pandemic or Declared Emergency.

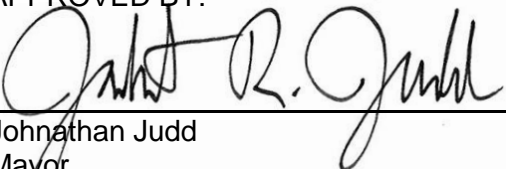
9. The City Engineer shall take such action as may be reasonably necessary or convenient to ensure bid openings are conducted by telephone or other Electronic Means.

SECTION 5:

This ordinance shall take effect immediately and upon first reading. A copy of this ordinance will be published on the City's official website and made available to any person requesting a copy of this Emergency Ordinance 2020-02. This Ordinance shall continue in full force and effect and terminate upon the determination by the City Council that the Declaration of Emergency is no longer needed.

PASSED: March 27, 2020 by the City Council of the City of Moorhead.

APPROVED BY:



Johnathan Judd
Mayor

ATTEST:



Christina Rust
City Clerk

First/ Second Reading: 03/27/2020

E-Post Date: 03/27/2020

Publication: XX/XX/2020